UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

KAYE R. MEDINA Plaintiff, v. ONE ADVANTAGE, LLC, a Delaware Corporation Defendant.	CIVIL ACTION 3:16-cv-00296 COMPLAINT JURY TRIAL DEMANDED

COMPLAINT FOR RELIEF PURSUANT TO
THE FAIR DEBT COLLECTION PRACTICES ACT

NOW COMES the Plaintiff, KAYE R. MEDINA ("Medina"), by and through her attorneys, Sulaiman Law Group, Ltd. and Law Offices of Mueller & Haller LLC, complaining of the Defendant, ONE ADVANTAGE, LLC, a Delaware Corporation ("One"), as follows:

NATURE OF THE ACTION

1. Medina brings this action as a consumer to secure redress for unlawful collection practices engaged in by One. Medina alleges violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA") and the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505 et seq. ("ICFA").

JURISDICTION AND VENUE

2. This action arises under and is brought pursuant to the FDCPA and ICFA. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §1692 (FDCPA), 28 U.S.C. §§1331, 1337, as this action arises under the laws of the United States. Supplemental jurisdiction exists for state law claims pursuant to 28 U.S.C. §1367.

3. Venue and jurisdiction are proper in this Court pursuant to 28 U.S.C. §1391 because One conducts business in the Southern District of Illinois and One's collection communications and practices impacted Medina within the Southern District of Illinois.

PARTIES

4. Medina is natural person residing within the Southern District of Illinois.

5. Medina is a "consumer" as defined under 15 U.S.C. §1692a(3).

6. At all times relevant to this action, One was engaged as collection agency with its principal office located in Belleville, Illinois.

7. One is a "debt collector" as defined under 15 U.S.C. §1692a(6), because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts owed to a third party.

8. At all times relevant to this complaint, One was collecting on a consumer debt as defined under 15 U.S.C. §1692 a(5).

FACTS SUPPORTING CAUSES OF ACTION

9. On May 21, 2015, Medina filed a chapter 13 bankruptcy petition in the United States Bankruptcy Court, Southern District of Illinois, case number 15-30802, invoking the protections of the automatic stay pursuant to 11 U.S.C. §362. *See* Exhibit A, a true and correct copy of the Notice of Bankruptcy Filing.

10. Medina included a pre-petition unsecured debt owed to St. Elizabeth's Hospital ("Elizabeth") in the amount of $9,713.25 on her Schedule F that was filed with her Bankruptcy Petition and Schedules ("subject debt"). *See* Exhibit B, a true and correct copy of Schedule F filed in Medina's bankruptcy case.

11. On November 3, 2015, One sent a dunning letter to Medina demanding payment in the amount of $3,237.75 to satisfy the subject debt incurred with Elizabeth for service rendered on December 22, 2014. *See* Exhibit C, a true and correct copy of One's dunning letter sent to Medina.

12. The dunning letter referenced Medina as the client. *Id.*

13. One's dunning letter stated:

> "The above referenced account(s) has been placed with our company for collection. Please send the balance to One Advantage, LLC...One Advantage, LLC reports this client's accounts with balances of $50.00 or greater to one or more credit bureaus. However, if the balance is paid by 12/31/15, this account will not be reported...This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose." *Id.*

14. One's letter included a payment coupon instructing Medina to detach the coupon and return it to One with a payment. *Id.*

15. Medina was upset by One's payment demand as she believed her bankruptcy filing prohibited such a payment demand.

16. Concerned about the violations of her rights and protections afforded by the United States Bankruptcy Code, Medina sought the assistance of counsel to ensure that One's collection efforts ceased.

17. Medina has expended time, incurring costs consulting with her attorneys as a result of One's deceptive collection actions.

18. Medina was unduly inconvenienced and harassed by One's unlawful attempt to collect the subject debt.

COUNT I -- VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

19. Medina repeats and realleges paragraphs 1 through 18 as though fully set forth herein.

20. One violated 15 U.S.C. §§1692e(2), e(10), f, and f(1) through its debt collection efforts of a consumer debt.

21. One violated 15 U.S.C. §1692e(2) when it misrepresented the character, amount, or legal status of the subject debt. The subject debt was not owed at the time One demanded payment of the subject debt by virtue of the automatic stay.

22. Similarly, One violated 15 U.S.C. §1692e(10) when it falsely represented that the subject debt was collectable at the time of the demands as the subject debt was not owed by virtue of the automatic stay.

23. One violated 15 U.S.C. §1692f by employing unfair and unconscionable means to collect the subject debt because the subject debt was no longer collectable at the time One demanded payment.

24. It was unfair and deceptive for One to attempt to collect the subject debt from Medina.

25. The underlying subject debt was scheduled in Medina's bankruptcy and was thus uncollectable by virtue of the automatic stay. One had no legal right to attempt to collect the subject debt from Medina.

26. Furthermore, One violated 15 U.S.C. §1692(f)(1) by attempting to collect an amount not permitted by law. Medina's obligation to pay the subject debt was stayed by virtue of her bankruptcy filing.

27. One has shown willful and malicious disregard towards the Bankruptcy Code and the FDCPA.

28. As pled above, Medina has suffered damages as a result of One's unlawful collection practices.

WHEREFORE, Plaintiff, KAYE R. MEDINA, respectfully requests that this Honorable Court enter judgment in her favor as follows:

a. declaring that the practices complained of herein are unlawful and violate the aforementioned statute;

b. awarding Medina statutory damages of $1,000 as prescribed by the FDCPA;

c. awarding Medina costs and reasonable attorney fees as provided under 15 U.S.C. §1692 and;

d. awarding any other relief as this Honorable Court deems just and appropriate.

COUNT II --VIOLATIONS OF THE ILLINOIS

CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

29. Medina restates and realleges paragraphs 1 through 18 as though fully set forth herein.

30. One violated 815 ILCS 505/2 by engaging in an unfair and deceptive act or practice by using fraud, deception, and misrepresentation in its attempt to collect an otherwise extinguished debt from Medina.

31. Medina is a "person" as defined in ICFA, 815 ILCS 505/1(c).

32. One is engaged in "commerce" as defined in ICFA, 815 ILCS 505/1(f).

33. One is engaged in commerce in the State of Illinois with regard to Medina and the subject debt. One's activities are within the stream of commerce and are utilized in its regular course of business.

a. Unfairness

34. It was unfair for One to seek to collect a debt from Medina through misleading payment demands. One was prohibited from collecting the subject debt by virtue of Medina's bankruptcy filing.

35. It was unfair for One to attempt to induce Medina into making payments on the subject debt by sending the payment demand.

36. One intended that Medina rely on its unfair acts.

b. Deception

37. One's demand for payment on the subject debt, which was scheduled in Medina's bankruptcy, represents the use of deception, fraud, and false pretense in an attempt to collect a debt that was not collectable at the time the demand for payment was made by One.

38. It is inherently deceptive and oppressive for One to induce Medina into paying a debt that was no longer collectable by virtue of the bankruptcy filing.

39. One intended that Medina rely on its unfair misrepresentations and deception in its efforts to induce Medina in paying a debt that was no longer collectable.

40. Medina relied upon One's false and misleading information.

41. Medina was harmed by being forced to spend time and money to consult with her attorneys regarding the effect of her bankruptcy filing.

42. One bullied Medina, an unsophisticated consumer, into near submission with unfair and deceptive conduct through lies, harassment, and deception regarding the collectability of the subject debt.

43. Upon information and belief, One regularly attempts to collect debts from Illinois Consumers that are no longer collectable by virtue of the United States Bankruptcy Code and the automatic stay.

44. As such, Medina is entitled to relief pursuant to 815 ILCS 505/10a.

WHEREFORE, Plaintiff, KAYE R. MEDINA, respectfully requests that this Honorable Court enter judgment in her favor as follows:

a. declaring that the practices complained of herein are unlawful and violate the aforementioned statute;

b. awarding Medina actual and punitive damages, in an amount to be determined at trial, for the underlying violations;

c. awarding Medina costs and reasonable attorney fees;

d. awarding any other relief as this Honorable Court deems just and appropriate.

Dated: March 18, 2016

Respectfully Submitted,

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